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>>From Phoenix Health Systems--HIPAA Knowledge--HIPAA Solutions<<
=>Healthcare IT Consulting & Outsourcing<=

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This week's HIPAAnote...

*** Pre-employment Physicals ***

Ah, the great job search - just when you think all the interviews and the paperwork is done, the dreaded pre-employment physical comes along. While many prospective employees feel that this is a nuisance, employers view this as a necessary practice. In companies where daily physical activity is a requirement of most of the workforce (think about Fed Ex and UPS), the prospective employer must be certain that its new hires are up to the standards that the job requires. Since the majority of these companies do not have a health clinic or health evaluation unit on site (and are not covered entities themselves), they often contract the services of a hospital or outpatient Occupational Health Clinic to perform pre-employment physicals.

So the potential employee's physical is conducted at the clinic, where protected health information (PHI) is undoubtedly created. Does her prospective employer, who is not a covered entity, then have a right to see her health information? The information generated during the job candidate's physical is PHI, after all - protected health information. The short answer is that the pre-employment physical is not a treatment situation; it is meant to evaluate the physical fitness of the job candidate. The services being provided are also not considered payment or healthcare operations.

In this instance, the clinic is being contracted to provide evaluation services and to then release information to the employer for reasons other than treatment, payment, and operations (TPO). Therefore, it will be necessary for the employee to sign an authorization prior to the physical exam being conducted. This authorization should be created by the prospective employer and clearly state all of the elements to be assessed during the physical. In this way, the employer is identifying ahead of time, both to the prospective employee and to the Occupational Health Clinic, the specific health information being assessed (drug screening, ability to lift weight, etc.) during the physical

and that will be disclosed to the employer.

But what if a health problem is discovered during the prospective employee's pre-employment physical? Again, if a patient agrees to and signs the authorization provided by the employer, then the Occupational Health Clinic is at liberty to release contents of the entire record created as a result of the physical. One final consideration to keep in mind - most states have laws about release of specialized information like HIV/AIDS, mental health, drug and alcohol abuse and sexually transmitted diseases. The authorization cannot require disclosure of health information on these topics if not allowed by applicable state law.

Read more about authorizations in the Final Modified Privacy Rule:

<http://www.hipaadvisory.com/regs/finalprivacymod/auth.htm>

Amanda Dorsey, Director
Phoenix Health Systems

That's today's HIPAAnote...now, pass it along!

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HIPAAnotes are published weekly as a learning tool to help you and your associates stay tuned-in to HIPAA and its implications. Forward it to anyone with a "need to know" through your own internal mailing list, intranet or newsletter -- whatever works for you...

Our HIPAAcratic oath: We'll use your ideas for HIPAAnotes -- send them!

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Our Other HIPAA resources:

HIPAAAdvisory web site: <http://www.hipaadvisory.com>

HIPAAAlert newsletter: <http://www.hipaalert.com>

HIPAAlive discussion list: <http://www.hipaalive.com>

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